

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN A. BENNETT, M.D.,	:	
<u>ET AL.</u> ,	:	
Plaintiffs,	:	CIVIL ACTION
v.	:	NO. 09-CV-1819
ITOCHU INTERNATIONAL INC.,	:	
<u>ET AL.</u> ,	:	CONSOLIDATED WITH
Defendants.	:	NO. 09-CV-4123

ORDER

AND NOW, this 23rd day of August, 2012, upon consideration of Defendants Itochu International Inc. ("Itochu"), et al.'s Motion for Summary Judgment (Doc. No. 80), Plaintiffs' Response in opposition thereto (Doc. No. 84; Doc. No. 39 in Case No. 09-CV-4123), and Defendants' Reply (Doc. No. 86; Doc. No. 41 in Case No. 09-CV-4123) in Case No. 09-CV-1819; Defendant/ Counter-Claimant MedSurg Specialty Devices, Inc.'s ("MedSurg") Motion for Summary Judgment (Doc. No. 79), Plaintiff/Counter-Defendant Devon Robotics, LLC's ("Devon Robotics") Response in opposition thereto (Doc. No. 82; Doc. No. 37 in Case No. 09-CV-4123), and MedSurg's Reply (Doc. No. 87; Doc. No. 42 in Case No. 4123) in Case No. 09-CV-1819; and, Plaintiff Itochu's Motion for Summary Judgment

(Doc. No. 34; Doc. No. 81 in Case No. 09-CV-1819), Defendants Devon Robotics, et al.'s Response in opposition thereto (Doc. No. 38; Doc. No. 83 in Case No. 09-CV-1819), and Plaintiff's Reply (Doc. No. 40; Doc. No. 85 in Case No. 09-CV-1819) in the consolidated Case No. 09-CV-4123, it is hereby ORDERED that:

(1) Defendants Itochu International Inc., et al.'s Motion for Summary Judgment (Doc. No. 80) is DENIED as to Count II for Breach of Contract against Defendants Itochu and MedSurg. The Motion is GRANTED as to all other remaining counts.

(2) Defendant/Counter-Claimant MedSurg Specialty Devices, Inc.'s Motion for Summary Judgment (Doc. No. 79) is DENIED.

(3) Plaintiff Itochu International's Motion for Summary Judgment (Doc. No. 81; Doc. No. 34 in Case No. 09-CV-4123) is GRANTED.

BY THE COURT:

s/J. Curtis Joyner

J. CURTIS JOYNER, C.J.